

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA :
: 10-CR-147
:
v. : March 12, 2010
: Brooklyn, New York
EDWARD GAROFALO, :
:
Defendant. :
:
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR DETENTION HEARING
BEFORE THE HONORABLE STEVEN M. GOLD
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: MICHAEL TREMONTE, ESQ.
AMY BUSA, ESQ.
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Proceedings recorded by electronic sound recording,
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1 (Proceedings began at 11:23 a.m.)

2 THE CLERK: Criminal Cause for a Detention Hearing,
3 Case Number 10-0147, United States v. Edward Garofalo.

4 Counsel, your name for the record.

5 MR. TREMONTE: Michael Tremonte and Amy Busa for the
6 United States. Good morning, Your Honor.

7 MS. GRAZIANO: Jean Marie Graziano and --

8 MR. MATTHEWS: Michael Matthews.

9 MS. GRAZIANO: For the defendant, Your Honor.

10 THE COURT: Good morning. Mr. Garofalo, do you speak
11 and understand English?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. As I understand it, the
14 defendant has -- was arraigned on the indictment last week. I
15 see a temporary order of detention was issued at that time.

16 MS. GRAZIANO: Yes, Your Honor.

17 THE COURT: I have before me -- so everybody knows
18 what I have and if there's more that I should have that I
19 don't you can tell me. I have a memorandum of law from the
20 prosecution, or at least it is so styled. It is [inaudible].
21 That's dated March 9th and I have two letters dated March 12th;
22 one from Ms. Graziano and one from the Government. Is that
23 the scope of the material I should have before me?

24 MS. GRAZIANO: Yes, Your Honor. My letter has two
25 attachments.

1 THE COURT: Let me make sure I have them both.

2 [Pause in proceedings.]

3 THE COURT: I have one attachment which is like a
4 list of suretors and I have another which is a letter from
5 Surgical Specialists. So those are the two you intended --

6 MS. GRAZIANO: Yes, Your Honor.

7 THE COURT: Thank you. Yes, I'm familiar with them.

8 Does the Government wish to add anything to what's
9 in its written presentation?

10 MR. TREMONTE: Yes, Your Honor. I'd like to address
11 some of the points made in defense counsel's letter of this
12 morning if I may. I'll take them in the order in which they
13 appear in the letter.

14 Ms. Graziano asserts that the Government proffers
15 that Mr. Garofalo is a threat to the community. Yet it's not
16 alleged that Mr. Garofalo engaged in actual violence in
17 connection with this case. I just want to point out that in
18 fact the Government does allege threatened violence in
19 connection with two charges, the attempted extortion of John
20 Doe Number 1 and a conspiracy and attempted extortion of John
21 Doe Number 2. I want to make sure that that's clear.

22 Also that a number of the incidents of violence that
23 are described in the detention memorandum which date back to
24 the period of 2004 to 2005 took place during the time when Mr.
25 Garofalo was involved in operating Big R Trucking. That is

1 the trucking company that was used together with other shell
2 companies to engage in criminal activity that's charged in the
3 indictment. Specifically double breasting in violation of
4 Section 664.

5 We would of course happily play for Your Honor the
6 recording that's referenced in defense counsel's letter and
7 any other recording that we reference in our detention memo.
8 However, I want to make clear that I don't think it matters.
9 The defense does not contest the Government's excepted
10 transcript of the recording which is at Pages 21 and 22 of the
11 detention memorandum, and I just would point out that there
12 Mr. Garofalo says in connection with the incident "Tell him to
13 meet us over there," and refers to another organized crime
14 associate and "Sit in the car. They know what's up.
15 Something happened if they get out of the car." So clearly
16 Mr. Garofalo anticipates that there could be violence.

17 And down towards the end of the excerpt Mr. Garofalo
18 twice states "He drives" in reference to another person in the
19 car. "You clean." Clean refers to bullets that are in the
20 car and that are being cleaned --

21 THE COURT: These are inferences you're drawing
22 from --

23 MR. TREMONTE: Drawing from the recording, correct,
24 Your Honor. I apologize.

25 THE COURT: From the recording. The way I read Ms.

1 Graziano's letter -- I hope I'm pronouncing your name
2 correctly.

3 MS. GRAZIANO: Yes, Your Honor.

4 THE COURT: Is not that she takes -- that she
5 acknowledges the truth of the inferences that you seek to draw
6 from the conversation but that she points out that they are
7 somewhat ambiguous conversations.

8 MR. TREMONTE: I don't think they're ambiguous at all
9 and I think they're especially unambiguous even accepting for
10 the purpose of argument the truth of what Ms. Graziano
11 asserts, namely that the defendant is friends with the
12 intended victim. I think that if you --

13 THE COURT: Well, that's irrelevant.

14 MR. TREMONTE: If you load up the car and you have a
15 gun and you're cleaning the bullets and you go searching for
16 somebody who you're going to threaten the fact that your
17 friends with them is not --

18 THE COURT: Well, that's the inference you're drawing
19 from the language that doesn't really say that. Right?
20 There's no reference to bullets or guns in any of the words
21 that are recorded -- that are refuted in your letter. Am I
22 incorrect about that?

23 MR. TREMONTE: Your Honor, I believe that there is a
24 reference to both guns and bullets.

25 THE COURT: Maybe I --

1 MR. TREMONTE: At Page -- the top of Page 22. Well,
2 actually, the bottom of Page 21 --

3 THE COURT: Okay. Got it.

4 MR. TREMONTE: -- there's reference to it a thing
5 and then prints and then it's made clear that it's a guy.
6 So --

7 THE COURT: It's nothing that Mr. Garofalo -- let's
8 find on how he says. Garofalo.

9 MS. GRAZIANO: Garofalo.

10 THE COURT: It is Garofalo?

11 MS. GRAZIANO: Yes, Your Honor.

12 THE COURT: Is it A-F-O and it's spelled O-F-A or is
13 it O-F-A but said like A-F-O?

14 MS. GRAZIANO: It's G-A-R-O-F-A-L-O.

15 THE COURT: Okay. Right. Right. There is certainly
16 references to guns and bullets. I don't think Mr. Garofalo
17 uses those words but you're absolutely right. Thank you. Go
18 ahead.

19 MR. TREMONTE: So the point that the Government is
20 making I think that the recording clearly illustrates his --
21 relates to danger.

22 THE COURT: Yes.

23 MR. TREMONTE: And it really -- the relationship
24 between the defendant and the intended victim I think is
25 irrelevant to the existence of the danger.

1 THE COURT: Now, obviously he's never been charged
2 with anything in connection with this; correct?

3 MR. TREMONTE: That is correct, Your Honor.

4 THE COURT: And the statute of limitations on it at
5 least as a direct offense and not a predicate act has run.

6 MR. TREMONTE: I believe that is correct, Your Honor.

7 THE COURT: Go ahead.

8 MR. TREMONTE: And with respect to the point made at
9 the bottom of the second page of defense counsel's letter that
10 Mr. Garofalo never talks about -- never has conversations
11 relating to violent acts our supplemental letter I think
12 addresses that point directly. There are any number of
13 conversations, including the two that are referenced in our
14 letter, where other Columbo crime family associates who have
15 or the evidence would show have very close ties to the
16 Persicos tell the cooperating witness about violent acts that
17 the defendant has engaged in, and that was the point of the
18 supplemental letter.

19 Then the last point, Your Honor. The suggestion
20 that there's no evidence of meetings between Mr. Garofalo and
21 members of organized crime is belied by many, many consensual
22 recordings. We could point to any number of them. One in
23 particular I think it makes sense to reference at this
24 juncture is a September 2, 2009 consensual recording where Mr.
25 Garofalo himself states that he had just very recently thrown

1 away the phone, the cellular phone that he had been using to
2 communicate with Theodore Persico who at the time was a
3 soldier in the family and now the evidence shows is the
4 underboss of the family, and then there's a brief discussion
5 where Mr. Garofalo says something about Mr. Persico, Jr.'s new
6 boat and makes a joke about how -- that's how you know he's a
7 real skipper. The pun obviously refers not only to the fact
8 that he's captain of the boat but also to his status in the
9 crime family.

10 So those are the points that the Government wants to
11 address at this time.

12 THE COURT: Thanks very much.

13 MS. GRAZIANO: Your Honor, I'd like to just briefly
14 go through some of the points that my colleague made.

15 Your Honor, I never say that there's not a threat of
16 violence in the indictment. I do say that there's no actual
17 violence that the Government can point to --

18 THE COURT: I understand the distinction. Thank you.

19 MS. GRAZIANO: -- throughout the -- also, I'd like
20 to say that there's another tape that speaks of this Craig
21 Marino incident and it's a tape that was played for Mr.
22 Garofalo by the FBI and it's a tape that clearly Mr. Garofalo
23 on that tape speaking with a Government CW is saying he's a
24 friend of mine, no harm could come to him. That is a tape
25 that I'm referencing and asking the Government to play. In

1 that tape Mr. Garofalo is overheard saying there can't be any
2 guns, there can't be any violence.

3 I would also --

4 THE COURT: Of course the inference from that is that
5 he knows that the people he's speaking to who he expects to
6 have persuasive power over would be using guns and violence
7 but for his intervention in that particular instance.

8 MS. GRAZIANO: But, again, no violence is given to
9 Mr. Garofalo at that juncture where he's inducing violence or
10 encouraging violence. He's actually trying to put out a fire
11 that has been started.

12 Your Honor, I think I've put forward to the Court a
13 very complete package, a package that not only has his family
14 members on the line but also a courtroom full of friends.

15 They're posting their properties that are their
16 primary homes. They're not posting properties that are their
17 second homes in the Hamptons. They're posting properties that
18 they and their families live in. You can see by the equity
19 chart that these people would be left in financial ruin. His
20 family would be left in financial ruin and they're aware of
21 the allegations. I reviewed the allegations with each of them
22 and they're still standing here today ready to stand up for
23 him.

24 Your Honor, I'm saying to this Court that the
25 Government is asking you to do what they can't do, and that is

1 to hold Mr. Garofalo responsible for charges that they haven't
2 indicted him on and if they're going to then we're deal with
3 them at that time.

4 THE COURT: Thanks. Anything else?

5 MR. TREMONTE: Very briefly. The larger context of
6 the tape, and I'm confident that we can prove this. The
7 reason why the violence didn't happen is because the organized
8 crime member that they had to consult about whether or not
9 they could commit an act of violence said no and that, Your
10 Honor, I submit is also clear from the tape and we are of
11 course asking the Court to do something that we can't do but I
12 want to be specific about what it is we're asking.

13 I don't think that the size of the package is really
14 relevant. We're asking the Court for a finding that the
15 defendant poses a danger to the community so significant that
16 there are no set of conditions that would be sufficient to
17 insure against that.

18 THE COURT: Right. Got it.

19 MS. GRAZIANO: Your Honor, just one more thing on the
20 danger to the community. The Government has known the
21 allegations that he's indicted for since 2004 and 2008 and
22 he's been out for the last sixteen months. If he was that
23 much of a danger to the community why didn't they immediately
24 pick him up?

25 THE COURT: I don't mean to rush anybody but these

1 are not new arguments in the context of cases of this type
2 which unfortunately appear before this Court with some
3 frequency.

4 I understand the cases cited by the prosecution in
5 its memo. Those are typically cases that involve people who
6 are the top of a hierarchical chain that has been demonstrated
7 to commit a series of violent acts under the direction of that
8 individual. By the Government's own tape rec -- memo of law,
9 it seems that Mr. Garofalo doesn't -- has not achieved such a
10 commanding stature within organized crime because as I
11 understand the Government's of the tape on Page 21 and 22 he's
12 meeting with Persico, Jr. to get Persico, Jr.'s permission to
13 ask Persico, Sr. to hurt somebody else, and that suggests a
14 midlevel rather than leadership role to me.

15 The other thing I see is a man who has reached the
16 age of 43 and has never been convicted or even charged with an
17 act of physical violence which is somewhat unusual in the
18 organized crime cases that don't involve people at the very
19 top of the hierarchy.

20 However, on the other hand, what I have is somebody
21 who has clearly been talking to people who are highly involved
22 at the top levels of organized crime and who stands accused of
23 crimes that involve the threat of violence and who the
24 Government represents, and I take the representation
25 seriously, is the subject of conversation as someone who's

1 committed acts of violence by cooperating witnesses.

2 The bail package is very substantial. Ordinarily
3 when I take a bail package in a typical case, not a typical
4 organized crime case but a typical case, I advise the suretors
5 that they stand to lose these things if the defendant doesn't
6 return to court. In this case, I would expect these suretors
7 to sign the bond knowing that it would be forfeited and the
8 property would become property of the United States if there
9 is any violation of the bond, including the commission of a
10 crime while the man is on release.

11 Obviously the commission of a crime would include,
12 but not be limited to, discussing, planning, participating or
13 conspiring to commit an act of violence or obstruction or a
14 threat thereof. So if they're willing to post their property
15 knowing that the bond could be forfeited if he commits any
16 crime at all including that type while he's out on bail and I
17 would put him on electronic monitoring and house arrest at
18 least for the beginning period of bail. We'll see how long
19 this case is going to take to get to trial and how it unfolds.
20 You can always make an application in the future. I would
21 entertain that.

22 Do you want some -- a second call so you can explain
23 this to the suretors --

24 MS. GRAZIANO: Your Honor, I've already explained to
25 the suretors --

1 THE COURT: -- or are they prepared to be --

2 MS. GRAZIANO: -- what the possibilities were and
3 they all still want to move forward.

4 THE COURT: Is there anything else the Government
5 wants me to say before -- wants to say before I make up my
6 mind finally?

7 MR. TREMONTE: Yes, Your Honor. I'd like to address
8 the issue of the defendant's role in [inaudible]. Our
9 memorandum sets forth what we believe the evidence would prove
10 as to his -- if you will, a title in the family.
11 Nevertheless, there is ample evidence to show that this
12 defendant occupies a position of some authority and influence
13 in the family that's very -- one that's very uncommon for what
14 we typically understand to be the authority and influence
15 associated with -- that goes along with an associate role.

16 In particular, the frequency of conversations with
17 Theodore Persico since childhood all through the time
18 immediately prior to Theodore Persico's incarceration on drug
19 charges and then immediately thereafter -- immediately after
20 his being released from jail and to the present time.

21 I would also point to the excerpt of the January 22,
22 2009 recording that's referenced in our March 12 letter where
23 Patrick Bombino who's had a lifelong association with Theodore
24 Persico, and I believe the evidence would show knows his mind
25 very well, indicates that the Persico family is indebted to

1 Mr. Garofalo and holds him in very high regard.

2 Then the evidence that relates to the charged
3 conduct, in particular the threats of violence with respect to
4 John Doe Number 2 it's clear from that I submit, recordings in
5 support of that charge that Mr. Persico consults with Mr.
6 Garofalo and takes his advice very seriously and treats him
7 when it comes to deciding what to do in connection with
8 criminal activity as a peer. I think that's very, very
9 important for the Court to be apprised of that.

10 THE COURT: Thank you. I understand what you're
11 saying and it may be that he has a relationship with certain
12 people that is personal and gives him more influence, but I'm
13 not persuaded by clear and convincing evidence that he's at
14 the pinnacle of the hierarchy of people who are committing
15 violent acts on a regular basis at his instruction which I
16 only point out not because that's the only way the Government
17 can establish dangerousness but because it's my understanding
18 that that's the rationale for many of the decisions cited in
19 the Government's memo for detaining people who haven't been
20 charged with or convicted of committing acts of violence
21 personally. And that's why I think those cases are at least
22 somewhat distinguishable.

23 I'm prepared to go forward but I've seen some other
24 lawyers come into the courtroom. It's going to take some time
25 to take 21 signatures and if you'd like to clean out some

1 things -- I don't mean to say it that way. We'd like to
2 handle some things that could be very quick I'll do those
3 first and we'll take a second call. Go ahead.

4 MR. TREMONTE: Your Honor, the Government requests an
5 opportunity to interview the suretors between now and the
6 second call and we'd like to be able to make any arguments
7 that go to their appropriateness as financially responsible
8 suretors at that time.

9 THE COURT: That's fine.

10 MS. GRAZIANO: Your Honor, we have no problem with
11 that. We'd also like to request some time notwithstanding Mr.
12 Garofalo's release but to file the actual confessions, and
13 there is one woman who is not present in the courtroom because
14 her grandfather passed away and she had to go to Chicago
15 unexpectedly but she'll present herself --

16 THE COURT: Well, I'm not going to release until the
17 confessions are filed. That I won't do because I don't want
18 people coming in and changing their minds.

19 MS. GRAZIANO: That's fine, Your Honor.

20 THE COURT: And that will also give the Government
21 ample time to appeal if they think that it's appropriate to do
22 so.

23 MS. GRAZIANO: Okay. Great. Thank you, Your Honor.

24 MR. TREMONTE: Thank you, Your Honor.

25 THE COURT: Thank you. We'll take a second call.

1 [Off the record.]

2 (Second call at 3:06 p.m.)

3 THE CLERK: Second call for Case Number 10-0147,
4 United States v. Edward Garofalo.

5 Counsel, your name for the record.

6 MR. TREMONTE: Michael Tremonte for the United
7 States. Good afternoon, Your Honor.

8 MS. GRAZIANO: Jean Marie Graziano on --

9 MR. MATTHEWS: Michael Matthews.

10 MS. GRAZIANO: -- for the defendant, Your Honor.

11 THE COURT: I think that to accommodate the Marshals
12 concern what I'm going to ask is that Mr. Garofalo and his
13 counsel move to the right and I'd like to get all of the
14 suretors over here on my left. If you're signing the bond,
15 come on up.

16 [Pause in proceedings.]

17 THE COURT: I want you all to speak up loud and clear
18 because we're recording everything you say. I want that
19 record to be clear and legible to whoever has to listen to the
20 recording.

21 Go ahead.

22 THE CLERK: Can you raise your right hands?

23 (AT THIS TIME, THE SURETORS, WERE SWORN.)

24 THE CLERK: State your name for the record starting
25 with you.

1 MR. PIRVONTE: John Pirvonte.

2 MS. GAROFALO: Alberta Garofalo.

3 MR. REGO: Gregg Rego.

4 MR. LASCALA: Robert Lascale.

5 MR. CASSASANTO: Steven Cassasanto.

6 MS. SCAVETTI: Vanessa Scavetti.

7 MR. VACERRI: Dominick Vacerri.

8 MR. : Anthony [inaudible].

9 FEMALE VOICE: [inaudible]

10 MR. GAROFALO: Emanuel Garofalo.

11 MS. GAROFALO: [inaudible] Garofalo.

12 MR. SERANO: Arthur Serano.

13 THE CLERK: Thank you.

14 THE COURT: Now, I'm going to address you in the
15 order that I have you listed here and make sure I have
16 everybody before I'm done. Some of what I'm going to ask you
17 I'm going to ask you as individuals. Some of what I'm going
18 to ask you I'm going to tell you as a group.

19 Let me tell you as a group first. Mr. Garofalo
20 stands before the Court accused of extremely serious crimes.
21 According to the prosecution he's committing those crimes on
22 tape recordings that they have in their possession. According
23 to the prosecution there are many witnesses who will
24 corroborate the inferences that could be drawn from those tape
25 recordings.

1 If Mr. Garofalo is convicted he stands to serve a
2 lengthy prison sentence. He has asked you to help him secure
3 his release on bail while he awaits further proceedings in his
4 case. He's asking you to pledge to pay the United States
5 Government \$3 million if he violates any condition of his
6 bail. He's asking you to place a lien on any real estate that
7 you own in favor of the United States Government to secure
8 your promise to pay the \$3 million that you would owe if Mr.
9 Garofalo violates the conditions of -- any condition of his
10 bail.

11 Let me say this another way. If Mr. Garofalo
12 doesn't come back to Court whenever he's supposed to, even if
13 he's later caught, if Mr. Garofalo commits a crime while he's
14 out on bail, even if it's a minor crime, each of you will owe
15 the United States Government \$3 million. If you posted
16 property to secure your promise, that property will
17 automatically become the property of the United States
18 Government. You will be thrown out of your home if it's your
19 home or whoever is living there will be thrown out. The
20 Government will sell the property cheap, pay off the debt and
21 come after you for the balance of the \$3 million assuming
22 there's still an amount owed.

23 Are you a suretor signing the bond, sir?

24 MALE VOICE: Yes, sir.

25 THE COURT: Raise your right hand. Do you swear

1 you're about to -- that everything you tell me will be the
2 truth, the whole truth and nothing but the truth?

3 MALE VOICE: Yes, I do.

4 THE COURT: Now I have to start all over again.

5 MALE VOICE: I had to go to the men's room. I
6 apologize.

7 THE COURT: That's all right. I'll do it again.

8 MR. TREMONTE: I will note for the Court, Your Honor,
9 that we had a brief discussion outside and I said I thought it
10 would be safe for him to take five minutes. So I have to
11 share [inaudible].

12 THE COURT: There's no blame. These things happen.
13 It bears repeating anyway.

14 Mr. Garofalo stands before the Court. He's charged
15 with very serious crimes. The prosecutor says that he's
16 committed those crimes on tape recordings that they have and
17 that there are many witnesses to the crimes who will testify
18 about them. If Mr. Garofalo is convicted of any of the
19 charges that are pending against him he can go to prison for a
20 very long time.

21 He's asking whether you want to help him get out on
22 bail while he awaits further proceedings in his case. He's
23 asking you to sign a \$3 million bond on his behalf. What that
24 means is that if he breaks any of the bail rules you will each
25 owe the United States Government \$3 million.

1 If you put up property, and this where you came in,
2 if you put up property to secure your promise, that property
3 will automatically become the property of the United States
4 Government and whoever is living in it will be evicted. The
5 property will be sold cheap. All the debts will be paid off
6 and then the Government will chase you for the rest of the \$3
7 million.

8 In doing so they will obtain a legal judgment
9 against you. That legal judgment will entitle the United
10 States Government to seize any of the assets that you may
11 have. That legal judgment will entitle the United States
12 Government to serve your employers with restraining notices so
13 that your pay goes to the Government instead of to you. That
14 legal judgment will ruin your credit rating. You will not get
15 a credit card or a car loan or a home loan because anybody who
16 runs your credit report will see that you owe the United
17 States Government \$3 million. They won't be inclined to lend
18 you money under that circumstance.

19 This will not only happen if Mr. Garofalo flees even
20 if he's caught. It will also happen if Mr. Garofalo commits
21 any crime at all while he is out on bail including, but not
22 limited to, threatening a witness, trying to collect money
23 that's owed to somebody in a manner that violates the law, or
24 otherwise committing a crime.

25 Anthony DiMichelle, did you hear and understand

1 everything I've said?

2 MR. DiMICHELLE: Yes.

3 THE COURT: Do you, in fact, own property on Main
4 Street in Voorhees, New Jersey?

5 MR. DiMICHELLE: Yes.

6 THE COURT: Approximately what is it worth?

7 MR. DiMICHELLE: 330.

8 THE COURT: Approximately how much do you owe on it?

9 MR. DiMICHELLE: [inaudible].

10 THE COURT: Do you own it in your own name?

11 MR. DiMICHELLE: Yes.

12 THE COURT: Are you employed?

13 MR. DiMICHELLE: Yes.

14 THE COURT: What do you do?

15 MR. DiMICHELLE: I work for an appraisal company.

16 THE COURT: What's the name of it?

17 MR. DiMICHELLE: Rely Appraisals.

18 THE COURT: What's the address of it?

19 MR. DiMICHELLE: 49 Crowne Point Road.

20 THE COURT: What town?

21 MR. DiMICHELLE: [inaudible], New Jersey.

22 THE COURT: How much do you earn there?

23 MR. DiMICHELLE: A thousand a week.

24 THE COURT: Do you still want to sign the bond?

25 MR. DiMICHELLE: Yes.

1 THE COURT: How do you know Mr. Garofalo?

2 MR. DiMICHELLE: My brother-in-law.

3 THE COURT: Arthur Serano, did you hear and
4 understand everything I said?

5 MR. SERANO: Yes.

6 THE COURT: Are you posting property here?

7 MR. SERANO: Yes.

8 THE COURT: I'm looking for you. I can't find you.

9 Do you own property with your wife Renee on Danbury
10 Lane in Sewell, New Jersey?

11 MR. SERANO: Yes.

12 THE COURT: How much is it worth?

13 MR. SERANO: 330.

14 THE COURT: How do you owe on it?

15 MR. SERANO: 120.

16 THE COURT: Are you employed?

17 MR. SERANO: Yes.

18 THE COURT: What do you do?

19 MR. SERANO: [inaudible]

20 THE COURT: What's the name of it and what's its
21 address?

22 MR. SERANO: [inaudible], 279 [inaudible] Road,
23 [inaudible].

24 THE COURT: How much did you earn from that business
25 last year, approximately?

1 MR. SERANO: \$50,000.00, \$60,000.00.

2 THE COURT: Do you still want to sign the bond?

3 MR. SERANO: Absolutely.

4 THE COURT: How do you know Mr. Garofalo?

5 MR. SERANO: My brother-in-law.

6 THE COURT: Renee Serano, did you hear and understand
7 everything I've said?

8 MS. SERANO: Yes.

9 THE COURT: Is everything Arthur told me about the
10 property accurate?

11 MS. SERANO: Yes.

12 THE COURT: Do you own it with him?

13 MS. SERANO: Yes.

14 THE COURT: Are you working?

15 MS. SERANO: No.

16 THE COURT: How do you know Garofalo?

17 MS. SERANO: He's my brother-in-law.

18 THE COURT: Do you still want to sign the bond?

19 MS. SERANO: Yes.

20 THE COURT: Dwayne Dicarini?

21 MR. LUCARINI: Lucarini.

22 THE COURT: Lucarini, excuse me. Did you hear and
23 understand everything I've said?

24 MR. LUCARINI: Yes, sir.

25 THE COURT: Are you working?

1 MR. LUCARINI: Yes, sir.

2 THE COURT: What do you do?

3 MR. LUCARINI: A hair salon.

4 THE COURT: What's the name of it?

5 MR. LUCARINI: [inaudible]

6 THE COURT: Where is it located?

7 MR. LUCARINI: Cherry Hill, New Jersey, [inaudible].

8 THE COURT: How much money did you earn from that
9 business last year?

10 MR. LUCARINI: \$20,000.00.

11 THE COURT: Do you, in fact, own property on Dominion
12 Drive in Marlton, New Jersey?

13 MR. LUCARINI: Yes, Your Honor.

14 THE COURT: What's it worth?

15 MR. LUCARINI: \$400,000.00.

16 THE COURT: What do you owe on it?

17 MR. LUCARINI: Nothing.

18 THE COURT: Do you still wish to sign the bond?

19 MR. LUCARINI: Yes, sir.

20 THE COURT: How do you know Mr. Garofalo?

21 MR. LUCARINI: I was friends with him for the last
22 fifteen years.

23 THE COURT: Roselle Lucarini.

24 MS. GRAZIANO: Your Honor --

25 THE COURT: Not here, correct? Thank you. I just

1 realized her signature line was blank but thank you for
2 keeping me focused. I have a lot of names here.

3 Barbara Garofalo and I guess you must be Manny
4 Garofalo; right? I'm getting better at this as I go forward.

5 MR. TREMONTE: You're doing good, Your Honor.

6 THE COURT: Thanks for the vote of confidence.

7 Ms. Garofalo, did you hear and understand everything
8 I've said?

9 MS. B. GAROFALO: Yes.

10 THE COURT: Do you, in fact, own property on Atlantic
11 Avenue in Brooklyn, New York with Manny?

12 MS. B. GAROFALO: My husband [inaudible]

13 THE COURT: Is it in -- this indicates at least that
14 it's in both your names but certainly between the two of you
15 that accounts for all of the owners. Would that be correct?

16 MS. B. GAROFALO: Yes.

17 THE COURT: Would your husband be more familiar with
18 its value than you then?

19 MR. M. GAROFALO: Not really.

20 THE COURT: How much is it worth?

21 MS. B. GAROFALO: It's worth \$800,000.00.

22 THE COURT: What do you owe on it?

23 MS. B. GAROFALO: 480.

24 THE COURT: Are you working?

25 MS. B. GAROFALO: No.

1 THE COURT: How do you know Mr. Garofalo?

2 MS. B. GAROFALO: My nephew.

3 THE COURT: Are you prepared to sign the bond?

4 MS. B. GAROFALO: Yes.

5 THE COURT: Manny Garofalo, did you understand
6 everything I've said?

7 MR. M. GAROFALO: Yes, I do, Your Honor.

8 THE COURT: Did Barbara Garofalo accurately describe
9 your ownership interest and equity in the property?

10 MR. M. GAROFALO: Yes, she did, Your Honor.

11 THE COURT: Are you working?

12 MR. M. GAROFALO: Yes, I am, Your Honor.

13 THE COURT: What do you do?

14 MR. M. GAROFALO: I'm a consultant.

15 THE COURT: For what? What's the name and address of
16 your company?

17 MR. M. GAROFALO: It's called Cayenne Corp. It
18 resides at the same address as on the bond and I broker
19 construction worker to the construction industry.

20 THE COURT: How much did you earn from that business
21 last year?

22 MR. M. GAROFALO: \$350,000.00.

23 THE COURT: Are you still prepared to sign the bond?

24 MR. M. GAROFALO: Yes, I am.

25 THE COURT: How are you connected to Mr. Garofalo?

1 MR. M. GAROFALO: My nephew.

2 THE COURT: Is Robert Lascala here?

3 MR. LASCALA: Yes.

4 THE COURT: Did you hear and understand everything
5 I've said?

6 MR. LASCALA: Yes.

7 THE COURT: Do you, in fact own property on Route 70E
8 in Cherry Hill, New Jersey and on Heartstone in -- is it
9 Carlton, New Jersey?

10 MR. LASCALA: Carlton, yes.

11 THE COURT: What are those properties worth?

12 MR. LASCALA: The one [inaudible] million and the
13 other one -- I'm not sure exactly. 350.

14 THE COURT: How much do you owe on them?

15 MR. LASCALA: One 550 and the other one a hundred and
16 something, 175 maybe.

17 THE COURT: Are you working?

18 MR. LASCALA: Yes.

19 THE COURT: What do you do?

20 MR. LASCALA: I own a restaurant.

21 THE COURT: What's the name of it?

22 MR. LASCALA: Lascala's.

23 THE COURT: That makes it easy. Where is it located?

24 MR. LASCALA: [inaudible]

25 THE COURT: How much did you earn from that business

1 last year?

2 MR. LASCALA: About \$250,000.00.

3 THE COURT: How are you connected to Mr. Garofalo?

4 MR. LASCALA: A friend of mine.

5 THE COURT: Are you still prepared to sign this bond?

6 MR. LASCALA: Yes, I am.

7 THE COURT: I'm going to blow this name. I'm sorry.

8 Angie Vacherri. Is that you?

9 MS. VACERRI: Vacerri, yes.

10 THE COURT: Vacerri. Now I have to find you. Do
11 you, in fact, own property on Cutsload Road in Somerville, New
12 Jersey?

13 MS. VACERRI: Yes.

14 THE COURT: What is it worth?

15 MS. VACERRI: About 280.

16 THE COURT: How much do you owe on it?

17 MS. VACERRI: About 30.

18 THE COURT: Are you working?

19 MS. VACERRI: No.

20 THE COURT: Are you still prepared the sign the bond?

21 MS. VACERRI: Yes.

22 THE COURT: How do you know Mr. Garofalo?

23 MS. VACERRI: He's my nephew.

24 THE COURT: Is Dominick Vacerri here?

25 MR. VACERRI: Yes, I am, Your Honor.

1 THE COURT: Did you understand everything I've said?

2 MR. VACERRI: Yes.

3 THE COURT: Do you co-own the property on Cutsload
4 Road with Angie?

5 MR. VACERRI: Yes, I do.

6 THE COURT: Did she accurately describe its value and
7 the debt on it?

8 MR. VACERRI: Yes.

9 THE COURT: Are you working?

10 MR. VACERRI: Yes.

11 THE COURT: What do you do?

12 MR. VACERRI: I work for a [inaudible] union in
13 Philadelphia.

14 THE COURT: How much did you earn last year?

15 MR. VACERRI: [inaudible]

16 THE COURT: Do you have a specific employment
17 address?

18 MR. VACERRI: I'm not sure where it is, Your Honor.

19 THE COURT: So, in other words, you get hired job by
20 job as a union member?

21 MR. VACERRI: That's correct.

22 THE COURT: What's the local name?

23 MR. VACERRI: Local 8 in Philadelphia [inaudible]
24 union.

25 THE COURT: How are you connected to Mr. Garofalo?

1 MR. VACERRI: He's my nephew.

2 THE COURT: Are you still prepared to sign the bond?

3 MR. VACERRI: Yes.

4 THE COURT: Where is Vanessa Scavetti?

5 MS. SCAVETTI: Here.

6 THE COURT: Did you understand everything I've said?

7 MS. SCAVETTI: Yes.

8 THE COURT: Do you own property on Sea Shore Road in
9 Brigham Teen, New Jersey?

10 MS. SCAVETTI: Yes, Your Honor.

11 THE COURT: What it's worth?

12 MS. SCAVETTI: \$250,000.00.

13 THE COURT: What do you owe on it?

14 MS. SCAVETTI: 175.

15 THE COURT: Are you working?

16 MS. SCAVETTI: No.

17 THE COURT: How do you know Mr. Garofalo?

18 MS. SCAVETTI: [inaudible]

19 THE COURT: Do you still wish to sign the bond?

20 MS. SCAVETTI: Yes, Your Honor.

21 THE COURT: Is John Fiavonte here?

22 MR. FIAVONTE: Yes, Your Honor.

23 THE COURT: I didn't hear but that's okay.

24 Do you own property on Maple Glenn Road in Mount
25 Laurel, New Jersey?

1 MR. FIAVONTE: Yes.

2 THE COURT: What's it worth?

3 MR. FIAVONTE: About 650.

4 THE COURT: What do you owe on it?

5 MR. FIAVONTE: About 430.

6 THE COURT: Are you working?

7 MR. FIAVONTE: Yes.

8 THE COURT: What do you do?

9 MR. FIAVONTE: I'm a plant operation director for
10 Voorhees pediatrics facility.

11 THE COURT: Where is that located?

12 MR. FIAVONTE: Voorhees, New Jersey.

13 THE COURT: How much do you earn there?

14 MR. FIAVONTE: \$75,000.00.

15 THE COURT: Are you still prepared to sign the bond?

16 MR. FIAVONTE: Yes.

17 THE COURT: How do you know Mr. Garofalo?

18 MR. FIAVONTE: He's a friend.

19 THE COURT: Heather Fiavonte is not here; correct?

20 MS. GRAZIANO: No, she's not, Your Honor.

21 THE COURT: Is Steven Cassasonto here?

22 MR. CASSASONTO: Yes.

23 THE COURT: Do you own property on Seigel Street in
24 Philadelphia?

25 MR. CASSASONTO: Yes, I do.

1 THE COURT: Do you own it in your own name?

2 MR. CASSASONTO: No. It's in my name and my
3 mother's.

4 THE COURT: Is the mother --

5 MS. GRAZIANO: Her name is Joanna and she's not
6 present today.

7 THE COURT: But she will be signing the bond?

8 MS. GRAZIANO: Yes.

9 THE COURT: Mr. Cassasonto, what's the property
10 worth?

11 MR. CASSASONTO: About \$200,000.00.

12 THE COURT: How much is owed on it?

13 MR. CASSASONTO: Nothing.

14 THE COURT: Are you working?

15 MR. CASSASONTO: Yes.

16 THE COURT: What do you do?

17 MR. CASSASONTO: I have a pizza business.

18 THE COURT: What's the name of it?

19 MR. CASSASONTO: Boston Style.

20 THE COURT: What's the address of it?

21 MR. CASSASONTO: It's Montgomery and [inaudible] Road
22 [inaudible].

23 THE COURT: How much money did you earn from that
24 business last year?

25 MR. CASSASONTO: About fifty thou.

1 THE COURT: Are you still willing to sign the bond?

2 MR. CASSASONTO: Yes.

3 THE COURT: How do you know Mr. Garofalo?

4 MR. CASSASONTO: Friend.

5 THE COURT: Is Gregg Rego here?

6 MR. REGO: Yes, sir.

7 THE COURT: Do you own property on Kimball Street in
8 Philadelphia?

9 MR. REGO: I do.

10 THE COURT: Do you own it in your own name?

11 MR. REGO: Yes.

12 THE COURT: How much is it worth?

13 MR. REGO: About \$325,000.00.

14 THE COURT: How much do you owe on it?

15 MR. REGO: About \$250,000.00.

16 THE COURT: Are you working?

17 MR. REGO: Yes.

18 THE COURT: What do you do?

19 MR. REGO: I own a title insurance company.

20 THE COURT: What's the name of it?

21 MR. REGO: HA Land Transfers.

22 THE COURT: What its address?

23 MR. REGO: It is 5001 Route 42, Suite A, in
24 Tannersville, New Jersey 08016.

25 THE COURT: How do you know Mr. Garofalo?

1 MR. REGO: Friend.

2 THE COURT: Do you still want to sign the bond?

3 MR. REGO: I do.

4 THE COURT: How much money did you make from that
5 business last year?

6 MR. REGO: \$89,000.00.

7 THE COURT: Is Janelle Diacco here?

8 MS. DIACCO: Yes.

9 THE COURT: Did you hear and understand everything
10 I've said?

11 MS. DIACCO: Yes.

12 THE COURT: Do you own property on Crowne Point Road
13 in [inaudible], New Jersey?

14 MS. DIACCO: Yes.

15 THE COURT: Do you own it in your own name?

16 MS. DIACCO: Yes.

17 THE COURT: How much is it worth?

18 MS. DIACCO: About 525.

19 THE COURT: About how much do you owe on it?

20 MS. DIACCO: A little over 300.

21 THE COURT: Are you working?

22 MS. DIACCO: Yes.

23 THE COURT: What do you do?

24 MS. DIACCO: I have a real estate appraisal company
25 [inaudible].

1 THE COURT: What are they called?

2 MS. DIACCO: [inaudible] Appraisal [inaudible]

3 THE COURT: What's their address?

4 MS. DIACCO: [inaudible] Road [inaudible]

5 THE COURT: How much did you earn from those
6 businesses last year?

7 MS. DIACCO: About \$85,000.00.

8 THE COURT: Do you still wish to sign the bond?

9 MS. DIACCO: Yes.

10 THE COURT: How are you connected to Mr. Garofalo?

11 MS. DIACCO: Friend [inaudible].

12 THE COURT: I don't know who Evan [inaudible] are.

13 MS. GRAZIANO: [inaudible]

14 THE COURT: Where is Alberto Garofalo?

15 MS. A. GAROFALO: Alberta.

16 THE COURT: Alberta Garofalo, got it.

17 Is there property associated with Alberta?

18 MS. GRAZIANO: No, there is not.

19 THE COURT: Okay. Then I will find it no matter how
20 much I look for it, will I?

21 Ms. Garofalo, how are you connected to the
22 defendant?

23 MS. A. GAROFALO: I'm his mother.

24 THE COURT: Are you working?

25 MS. A. GAROFALO: Yes.

1 THE COURT: What do you do?

2 MS. A. GAROFALO: I work for the Board of Education.

3 THE COURT: What do you do --

4 MS. A. GAROFALO: Paraprofessional.

5 THE COURT: How much did you earn last year?

6 MS. A. GAROFALO: 34.

7 THE COURT: That's the Board of Education for the
8 City of New York?

9 MS. A. GAROFALO: Yes.

10 THE COURT: Are you prepared to sign the bond?

11 MS. A. GAROFALO: Yes.

12 THE COURT: Have I overlooked anybody?

13 MS. GRAZIANO: No, Your Honor.

14 THE COURT: Have you all already signed the
15 documents? Do any of you have any questions?

16 (All state no.)

17 THE COURT: We said that we wouldn't be releasing the
18 defendant until the confessions of judgment are filed. Is
19 there a date by which, Counsel, you think you can commit to
20 doing that?

21 MS. GRAZIANO: Your Honor, on the safe side we're
22 going to say Wednesday but we believe we'll have it done by
23 Monday afternoon but [inaudible].

24 THE COURT: If you get it done by Monday and it's
25 early enough in the afternoon we can probably have Mr.

1 Garofalo produced on Tuesday but otherwise I'm going to issue
2 a temporary order of detention returnable Wednesday.

3 MS. GRAZIANO: Your Honor, we'll ask that it be done
4 on Tuesday and I'll [inaudible].

5 THE COURT: Then it will be done on Tuesday and
6 obviously you'll have to get them over to the U.S. Attorney's
7 Office and they'll have a chance to look at them before he's
8 released. So if -- don't come in at 4:00 on a Tuesday
9 afternoon with a stack of confessions. Okay?

10 So that will be -- today is the 12th. Sunday is the
11 14th. Tuesday is the 16th.

12 You can wait for me. I'm going to get to you.

13 Tuesday. If it's not perfected he'll go back and
14 they'll wake him up again on Wednesday. He'll miss breakfast
15 two days in a row.

16 Is there anything else I can accomplish while we
17 have everybody together?

18 MR. TREMONTE: Your Honor, should we specify the
19 conditions on the bond now or --

20 THE COURT: Yes. I'll state them now.

21 MR. TREMONTE: The only other thing I would note is
22 in the event that things get done very quickly and there's
23 some possibility [inaudible] please let me know as early as
24 possible because I need to [inaudible] defendant.

25 THE COURT: The conditions of the bond -- well, right

1 now there are no travel restrictions. Should I say Eastern
2 and Southern even though there's home detention? Is there any
3 objection to that?

4 MS. GRAZIANO: [Inaudible] New Jersey.

5 THE COURT: New Jersey, Eastern, Southern. No
6 contact with co-defendants except in the presence of counsel.

7 MS. GRAZIANO: Except, Your Honor, the exception of
8 his wife who's also a co-defendant.

9 THE COURT: I didn't realize the wife was named in
10 the indictment.

11 Then it says witnesses, victims and members of
12 organized crime. The Government is either going to have to
13 specify who those people are or it's going to have to bear the
14 burden of proving not only that there was contact but that the
15 defendant knew that the person was somebody who was not
16 allowed to have contact with by virtue of this order. I think
17 that's obvious.

18 MR. TREMONTE: I'm confident that in the event
19 there's contact we'll be able in a position prove [inaudible].

20 THE COURT: The defendant may not have a passport
21 while he's on pretrial release. Does he have one?

22 MS. GRAZIANO: I'll surrender it, Your Honor.

23 THE COURT: Let's surrender -- make sure it's
24 surrendered before he's released and he may not apply for or
25 have in his control a passport with his likeness or his name

1 while he's on bail.

2 You will be subject to random home visits by a
3 Pretrial Services officer. He will report to Pretrial as
4 directed. He will be subject to home detention with
5 electronic monitoring for which he will pay, and he may not
6 leave his home except for medical emergencies, court
7 appearances and attorney visits. I'm prepared to have that
8 revisited after a period of adjustment that's successful.

9 He must undergo evaluation and treatment of mental
10 health problems. Is there some history that's going on for us
11 to require that?

12 MS. GRAZIANO: Your Honor, he had a previous case
13 where he was in gamble therapy.

14 THE COURT: That's probably what triggered Pretrial's
15 request for that. Thank you.

16 He'll pay for the electronic monitoring. I've made
17 it explicit on the bond since it was signed that -- which I've
18 already told you that any violation including commission of a
19 crime would result in forfeiture of the bond as to the
20 defendant and the suretors.

21 Of course the dollar mount of \$3 million and the
22 list of properties is already here.

23 MS. GRAZIANO: Your Honor, as I indicated in my
24 submission morning, he had a scheduled surgery on Thursday
25 morning. Can we just note for the record that he can attend

1 that?

2 THE COURT: Yes. I will consider his surgery on
3 Thursday morning to be a medical emergency but I want the
4 Pretrial Services officer assigned to his case to know where
5 and when that surgery will be taking place, whether it's a day
6 op or whether he's being admitted, and I want him to waive his
7 medical records privilege with respect to Pretrial Services.

8 I don't want the defendant to sign until -- because
9 I want him warned right before he's released.

10 MS. GRAZIANO: Okay.

11 THE COURT: But I'll tell you now, you step over the
12 line one inch all those homes become property of the United
13 States Government. All these people owe the United States
14 Government \$3 million and so do you. Then you've got bail
15 jumping on top of everything else which is a mandatory prison
16 sentence served consecutively to whatever time you get on
17 anything else you might be convicted of. Understood?

18 THE DEFENDANT: Understood. I'll be cooking for them
19 every Sunday it looks like.

20 * * * * *

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1 I certify that the foregoing is a court transcript from
2 an electronic sound recording of the proceedings in the above-
3 entitled matter.



6 Shari Riemer

7 Dated: March 15, 2010

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